TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

HB 1121 - SB 1292

March 10, 2013

SUMMARY OF BILL: Requires any public contract concerning durable medical equipment (DME) and related services to be open to any supplier of DME and related services that is licensed in this state, has a physical location that is licensed in this state, and is accredited and bonded as determined appropriate by the Commissioner of Finance and Administration if the supplier is willing to provide DME equipment and services at the published price. Prohibits any company or private entity that acts in management of a contract for DME and related services or which approves claims for such equipment and services from having any financial interest in any contracted supplier. Any public contract for the provision of DME and related services entered into or renewed after the effective date of the bill must contain a termination notice requirement of a minimum of 120 days advance written notice by certified mail. Any clean claim arising from the public contract must be paid within 60 days.

The Bureau of TennCare (the Bureau) is required to establish and publish an annual fee schedule for DME and related services in each region in which it provides services at the beginning of the fiscal year for that fiscal year. The state and the Bureau are prohibited from excluding any DME supplier who chooses to accept the published fee schedule or rates. Recipients of medical assistance and any providers of medical services to recipients of medical assistance must be permitted to choose the DME supplier through which the recipient will receive DME and related services.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – Exceeds $7,737,500

Increase Federal Expenditures - $13,873,900

Increase Local Expenditures – Exceeds $25,400

Assumptions:

- The bill applies to any publicly funded health insurance program provided by the sate, including but not limited to, medical assistance provided under Title 71, Chapter 5, and any state or local health insurance plan under Title 8, Chapter 27.
- The Department of Commerce and Insurance, TennCare Oversight Division, will be responsible for regulating the provisions of the bill which will include monitoring DME claims processing to ensure the managed care organizations (MCOs) meet the different

prompt pay standard established by the bill and processing provider complaints. Any increased expenditures can be accommodated within the existing resources of the Department without an increased appropriation or reduced reversion.

- According to the Bureau, requiring participating MCOs to contract with every DME supplier that meets the criteria established by the bill will impact the TennCare programs expenditures.
- A managed care system is one in which an insurer can negotiate pricing and utilization by contracting with a select number of providers at a lower cost point in return for providing a larger volume of business. An "any willing provider" system can limit the MCOs ability to negotiate price based on volume of business.
- An "any willing provider" system can also impact the authorization requirements necessary to ensure that recipients do not access overlapping or duplicative services from multiple providers offering similar services.
- According to the Bureau, the requirements of the bill can be expected to increase costs by 20 percent. This estimation is based in part on a Government Accountability Office report relative to Medicare DME suppliers.
- In FY11-12, the Bureau expended $105,907,952 for DME equipment.
- It is estimated that the Bureau will incur at least a 20 percent increase in DME equipment costs which will result in an increase in expenditures of $21,181,590.
- Of the $21,181,590, $7,307,649 will be state funds at a 34.5 percent rate and $13,873,941 will be federal funds at a 65.5 percent federal match rate.
- According to the Department of Finance and Administration, Benefits Administration, the State Employee, Local Education, and Local Government health plans will incur increases in DME expenditures of at least 5 percent.
- In FY11-12, DME expenditures are expected to be at least $14,500,000 for all three plans. A five percent increase in expenditures is $725,000. This amount is applied to the three plans as follows:
    - State Employee Health Plan is $391,500 ($725,000 x .54);
    - Local Education Plan is $282,750 ($725,000 x .39);
    - Local Government Plan is $50,750 ($725,000 x .07).
- The state covers 80 percent of the employees' health costs in the State Employee Health Plan resulting in an increase in state expenditures of at least $313,200 ($391,500 x .80).
- The state portion of the Local Education Plan is 45 percent for Local Education instructional staff which is approximately 75 percent of LEA employees and 30 percent for support staff which is approximately 25 percent of LEA staff. The increase in state expenditures is estimated to be at least $116,634 [($282,750 x .75 x .45) + ($282,750 x .25 x .30)].
- Each local government that participates in the state sponsored health plan is responsible for paying a percentage of the costs which is determined by the local government. It is assumed that local governments will contribute at least 50 percent of the cost resulting in an increase in local expenditures that will exceed $25,375 ($50,750 x .50).
- The estimated total increase in state expenditures is at least $7,737,483 ($7,307,649 + $313,200 + $116,634).

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Lucian D. Geise, Executive Director

/ehu